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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/583,181

04/23/2007

Gianfranco D'Amato

11369/10

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757 7590 01/16/2009  
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EXAMINER

DEMERE, CHRISTOPHER R

ART UNIT

PAPER NUMBER

3782

MAIL DATE

DELIVERY MODE

01/16/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/583,181	<b>Applicant(s)</b> D'AMATO, GIANFRANCO	
	<b>Examiner</b> CHRISTOPHER DEMEREE	<b>Art Unit</b> 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/24/2006 and 6/16/2006</u> .                                 | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-18, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over D'Amato (US 5586689 A) in view of Koch (US 1520870 A).

Regarding claims 1-8, 10 and 11, D'Amato teaches a receptacle and the blank for making comprising an upper and a lower peripheral edge (24 and 25) and first and second connection edges (6 and 7) laterally connecting said peripheral edges, each of said connection edges extending along overlap regions which are interconnectable for shaping the container. D'Amato teaches everything except an inspection opening formed in the container.

Koch teaches a receptacle comprising overlapping inspection openings formed in the blank (13). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify D'Amato's receptacle to include overlapping openings to allow a user to view the contents, as taught by Koch. Examiner notes that the location of said openings would have to be located at the peripheral edges (6 and 7) of D'Amato's blank since that is the only overlapping portions of the blank (i.e. 10 and 11).

Regarding claim 9, D'Amato, as modified above, teaches a receptacle and the blank for making characterized in that the peripheral opening is at least surrounded in part by a coating area (D'Amato; Col 4 lines 13-16).

Regarding claims 13 and 14, D'Amato, as modified above, teaches everything except a top and bottom peripheral flange (i.e. cup-like shape). Koch teaches a bottle shaped receptacle comprising a bottom peripheral flange (see Fig. 4). It would have been obvious to one of ordinary skill in the art to modify D'Amato's receptacle from a cone-shape to more of a cup or bottle shape in order to contain fluids, as taught by Koch.

Regarding claims 15-18, 20 and 21, D'Amato, as modified above, teaches a receptacle characterized in that the inspection opening is sealed in fluid-tight fashion by a particularly transparent film or coating (Koch; 14).

3. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over D'Amato in view of Koch as applied to claim 12 above, and further in view of Nelson et al. (US 6378763 B1; hereinafter Nelson).

Regarding claim 19, D'Amato, as modified above, teaches everything except the receptacle comprising an imprint or coloration. Nelson teaches a container comprising indicia printed thereon (Col 5 lines 1-5). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to further modify D'Amato's receptacle to include indicia in order to provide a label, as taught by Nelson.

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Barbieri (US 2156328 A). Barbieri teaches a receptacle similar to that as claimed in the instant invention in that the blank comprises peripheral openings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER DEMEREE whose telephone number is (571)270-1982. The examiner can normally be reached on Mon-Fri, 8:00 AM-5:00PM, Alt Fri, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher Demeree/  
Examiner, Art Unit 3782

/Gary E. Elkins/  
Primary Examiner, Art Unit 3782